

May 18, 1940.

Mr. W. Howard Millet,
State Dairy Commissioner,
Phoenix, Arizona.

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ARIZONA ATTORNEY GENERAL

Dear Sir:

I have before me your letter of May 7, 1940, reading as follows:

"I have found some dairies selling to cafes and such establishments, a special prepared product for use on cereals and are labeling this product as follows: 'Grade 'A' Pasteurized, Homogenized, Cereal Cream, 12% Butter Fat.'

"Is this permissible under our state law?

"As I see this, it is properly labeled and under Section 12, Senate Bill #84 is permitted as this section defines light cream, heavy cream and extra heavy cream, and further states that cream having a butter fat content of less than 18% shall not be considered as market cream."

Section 12, Chapter 82, Laws of Regular Session, 1931, recognizes the existence of a cream having a butter fat content of less than 18% but provides that such cream shall not be considered as market cream. Section 38 of the same chapter provides:

"Any dairy product displayed upon the label thereof or by reference, placard, or advertisement any symbol, letter, figure, or word or combination thereof, indicating or suggesting that such product is of a grade, class, quality, or composition other than its true grade, class, quality or composition, or that shall not have been labeled as herein required for such, is misbranded."

It is clear that the label in question does not violate the above section inasmuch as it distinctly states that the product is cereal cream and that the butter fat content is 12%. For the above reasons it is the opinion of this office that such label is not prohibited by the dairy code.

Yours very truly,

JOE CONWAY,
Attorney General.

W. E. POLLEY,
Assistant Attorney General.

EARL ANDERSON,
Special Assistant
Attorney General.

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